

**SUMMARY REPORT OF INVESTIGATION<sup>1</sup>****I. EXECUTIVE SUMMARY**

Date of Incident:	September 14, 2015
Time of Incident:	9:38 P.M.
Location of Incident:	XXXX N. Laramie Avenue, Chicago, IL 606XX
Date of IPRA Notification:	September 14, 2015
Time of IPRA Notification:	10:15 P.M.

On September 14, 2015, at approximately 9:38 P.M., Officer A and Officer B were on routine patrol in an unmarked police vehicle, working in Area North's Gang Enforcement Unit. As the officers drove south down the alley behind XXXX N. Laramie, they observed Complainant Subject 1 walking north, wearing one shoe, and holding his waistband. The officers pulled alongside Subject 1 and Officer A asked him to approach the vehicle, at which point Subject 1 fled into the rear yard of XXXX N. Laramie. Officer A exited the vehicle and gave chase. When Subject 1 neared the back door of the residence, he tripped and fell on the south gangway, causing a handgun to fall out of his front pants pocket. Subject 1 picked up the gun with his right hand and looked back at Officer A, then continued to run west through the gangway. As Subject 1 ran past the front portion of the house, he looked back a second time, exposing his face, right breast, right arm, and the firearm to Officer A. Officer A believed that Subject 1 was pointing the firearm at him and he discharged his weapon a total of twelve times, striking Subject 1 in the right arm. Subject 1 fled southbound on Laramie, where Officer B observed him running with the gun in his right hand. Subject 1 jumped over a fence at XXXX N. Laramie and broke into the residence through a bedroom window.

When assisting units arrived and entered the residence located at XXXX N. Laramie, they discovered Subject 1 hiding underneath a bed. Responding officers also located a blood-spattered Ruger Model P89 pistol in the bedroom closet. While on scene, Subject 1 admitted that the gun belonged to him. Subject 1 also acknowledged that when he was fleeing from Officer A, he twice

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<sup>1</sup> On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

“looked back to see where the police officers was at”<sup>2</sup> while the gun was in his right hand. After speaking with detectives, Subject 1 was transported to Hospital 1 and treated for a gunshot wound to the right bicep. Subject 1 subsequently pled guilty to aggravated assault on a peace officer with a weapon and the unlawful use of a weapon by a felon.

COPA’s investigation demonstrates that at the time Officer A discharged his firearm, he believed that Subject 1 was pointing his weapon at him and posed an immediate threat to his life, and his belief was objectively reasonable under the circumstances.

## II. INVOLVED PARTIES

Involved Officer #1:	Officer A; Star #XXXX; Employee #XXXX; Date of Appointment: XXXXX XX, 2004; Police Officer; Unit XXX; Date of Birth: XXXXX XX, 1977; Male; White.
Subject #1:	Subject 1; Date of Birth: XXXXX XX, 1993; Male; Black.

## III. ALLEGATIONS

Officer	Allegation	Finding
Officer A	1. On or about September 14, 2015, at 9:38 P.M., at XXXX N. Laramie, Officer A violated General Order 03-02-03 in that he discharged his weapon at Subject 1 while Subject 1 was fleeing and had his back turned toward Officer A, in violation of Rules 2, 3, 6, and 8.	Unfounded

## IV. APPLICABLE RULES AND LAWS

### Rules

1. **Rule 2:** Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
2. **Rule 3:** Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
3. **Rule 6:** Disobedience of an order or directive, whether written or oral.

<sup>2</sup> Att. #62, pg. 15.

**4. Rule 8:** Prohibits disrespect to or maltreatment of any person, while on or off duty.

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General Orders

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1. **G03-02:** Use of Force Guidelines (Effective Date: October 1, 2002)

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2. **G03-02-03:** Deadly Force (Effective Date: February 10, 2015)

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Federal Laws

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1. U.S. Constitution, 4<sup>th</sup> Amendment

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State Laws

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1. 720 ILCS 5/7-5, Peace Officer's Use of Force in Making Arrest

**V. INVESTIGATION<sup>3</sup>**

**a. Interviews**

**Complainant Subject 1**

In a statement to IPRA on September 15, 2015, Subject 1<sup>4</sup> stated that on the date and time of the incident, he was on his way to his girlfriend Civilian 1's house at XXXX N. Laramie. As Subject 1 exited a taxi in the alley east of Laramie, he called Civilian 1 and asked her to open her back door and let him inside. Subject 1 recalled that as he turned from the alley into Civilian 1's rear yard, a Crown Victoria police vehicle pulled alongside him and the officers inside of the vehicle told him "to come 'ere." Subject 1 told IPRA that he was already on Civilian 1's property and was not doing anything suspicious, so he ignored the officers and continued to walk toward the door. Subject 1 admitted that he was carrying a gun but stated that it was completely concealed in his front pants pocket and his hand was also "shoved down in my pants...so you never woulda just know I had no gun."<sup>5</sup>

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<sup>3</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

<sup>4</sup> IPRA investigators interviewed Subject 1 at Hospital 1, where he was being treated for a gunshot wound to his right bicep. Due to his injury, Subject 1 stated that he could not sign the Sworn Affidavit or Consent to Record forms; however, he gave his verbal consent to proceed on the record in the presence of Hospital 1 Nurse Civilian 2 and Officer C #XXXX. (Att. #19-24.)

<sup>5</sup> Att. #24, pg. 11, lines 28-30.

Subject 1 said that when one of the officers got out of the vehicle, he started running through the rear yard of XXXX N. Laramie, where he tripped and fell face first. Subject 1's right hand and the gun came out of his pocket and the barrel of the gun scraped the ground, but he did not drop the gun. According to Subject 1, the officers could not have seen the gun because "when I fell both of the gun and me fell but never once was it revealed cuz it was in front a me."<sup>6</sup> While Subject 1 was on the ground, the officer that was chasing him on foot started shooting at him and Subject 1 was struck in the arm. Subject 1 denied that he ever pointed the gun at the officers or ever "once turned towards them. My back was always towards them. They never once seen my face or seen no hand movements. When I fell they just started shootin'..."<sup>7</sup> As the officer was firing, Subject 1 got up and continued to flee, afraid that he would be shot a second time. Subject 1 could not identify or describe which of the two officers shot him because he alleged that his back was always towards the officers.

As Subject 1 fled down the gangway, he noticed that Civilian 1's rear door was open and "she was just standin' right there."<sup>8</sup> However, Subject 1 stated that he ran into another yard and then hid inside a house. Subject 1 did not know the address and could not describe the location of the house. Subject 1 acknowledged that when he entered the house, he put his gun in a bedroom closet and hid underneath a bed, where the police subsequently discovered him.

#### Officer A

In a statement to IPRA on September 22, 2015, Officer A provided the following account. On the date and time of the incident, Officer A was a gang team officer working Beat XXXX. His partner, Officer B, was driving an unmarked Crown Victoria, and Officer A was sitting in the front passenger's seat. Officer A stated that they were on routine patrol, checking on known gang locations and routes, when they turned into the alley east of Laramie and drove southbound at a slow rate of speed. When their vehicle was approximately two houses south of Thomas, Officer A observed Subject 1 enter the alley on foot at Augusta and begin walking northbound on the west side of the alley, toward the officers. Officer A noticed that Subject 1 was only wearing one shoe, and his right hand was near his waistline on the outside of his clothing, "kinda clenched holding

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<sup>6</sup> Att. #24, pg. 7, lines 1-3.

<sup>7</sup> Att. #24, pg. 8, lines 10-14.

<sup>8</sup> Att. #24, pg. 14, lines 16-17.

something.”<sup>9</sup> Officer A pointed out his observations to Officer B and, as they drove closer to Subject 1, Officer A saw that he was also sweating profusely.

Officer B pulled alongside Subject 1 and Officer A stuck his head out of the passenger’s side window and asked Subject 1 why he was only wearing one shoe. Subject 1 gave him a “deer in the headlights look,”<sup>10</sup> at which point Officer A told Subject 1 to approach them. Officer A started to exit the vehicle to speak with Subject 1, but as soon as the door handle clicked open, Subject 1 started to run away. Officer A yelled, “Stop, police,” and he began chasing Subject 1 on foot westbound through the rear yard of XXXX N. Augusta.<sup>11</sup> When Officer A was approximately 10-15 feet behind Subject 1, Subject 1 tripped and fell face first on the concrete landing near the back door, which is located along the south gangway of the residence. As Subject 1 fell, Officer A observed a silver semi-automatic pistol slide out of Subject 1’s right pocket and fall to the ground approximately two feet from his body. According to Officer A, “[F]irst thing Mr. Subject 1 did was he grabbed the pistol with his right hand. And then he pushed himself up with his left hand to his, to where he was standing on his left knee on the ground. Turned his body and straightened out his right leg so his right leg was extended, left knee on the ground, and then he had the pistol pointed back at me.”<sup>12</sup> Officer A described the movement of Subject 1’s right arm as “like a swinging motion”<sup>13</sup> as he picked up the pistol and swung it back in Officer’s A’s direction while he looked back over his shoulder. Officer A immediately slowed down and unholstered his weapon, but by that time Subject 1 had lowered his own gun, gotten back up, and begun running westbound down the gangway.

Officer A continued to give chase and, as Subject 1 ran past the front portion of the residence, he turned his upper body back and to the right, exposing his right breast, right arm, and the firearm. Officer A stated that Subject 1 “turned right to face me, he raised the pistol at me and we made eye contact.”<sup>14</sup> Fearing that his life was in danger, Officer A discharged his firearm a total of twelve times from approximately 15 feet away. When he attempted to fire a thirteenth time, his weapon malfunctioned and he stopped to eject the magazine, causing one live round to fall to

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<sup>9</sup> Att. #36, pg. 13, line 22.

<sup>10</sup> Att. #36, pg. 14, line 15.

<sup>11</sup> Officer A provided an incorrect address. The address where the incident occurred is XXXX N. Laramie, not XXXX N. Augusta.

<sup>12</sup> Att. #36, pg. 18, lines 1-8.

<sup>13</sup> Att. #36, pg. 37, line 4.

<sup>14</sup> Att. #36, pg. 21, lines 10-11.

the ground. Officer A reloaded his weapon with a new magazine and continued to pursue Subject 1, who had fled southbound on Laramie. As Officer A turned onto Laramie, he saw Subject 1 running across Augusta, and Officer B pursuing him in the police vehicle. Subject 1 entered the front yard of a residence just south of Augusta, at which point Officer A ran eastbound on Augusta and turned back into the alley, where he waited and covered the rear of the residence. Officer A knew from radio transmissions that Officer B was covering the front of the home. While Officer A waited in the alley, he cleared his gun to ensure that it was back in operation.

Within minutes, assisting officers arrived and entered the residence. A gang team sergeant notified Officer A that they had placed the subject into custody and recovered his weapon. The sergeant then led Officer A into the residence, where he made a positive identification of Subject 1.

### **Officer B**

In a **statement to IPRA on October 7, 2015, Officer B**<sup>15</sup> related his account of the incident. On the evening of September 14, 2015, Officer B was a gang team officer working Beat XXXX. He and his partner, Officer A, were on patrol in the area near Laramie and Augusta, investigating a murder between two rival gangs. At approximately 9:35 P.M., Officer B, who was operating an unmarked blue Crown Victoria, turned into the alley east of Laramie and began to drive southbound down the alley. He saw Subject 1 enter the alley at Augusta and walk northbound on the west side of the alley. As Officer B drove closer to Subject 1, he noticed that Subject 1 “had one shoe on and he had his right hand near his front waist area.”<sup>16</sup> Subject 1’s right hand was outside of his clothing, clutching his waist area, and he was walking with a limp. Officer B pulled the vehicle alongside of Subject 1 and Officer A asked him why he was only wearing one shoe. Subject 1 did not respond and continued walking. As Officer A opened the passenger’s side door to exit the vehicle, Subject 1 began running westbound into the rear yard of XXXX N. Laramie. Officer A yelled out, “Stop, police,” then began chasing Subject 1 through the yard into the south gangway of the residence.

Officer B remained with the vehicle in the alley, explaining that he and Officer A had a system whereby “when someone runs one would engage and then the driver would stay just to see

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<sup>15</sup> Att. #32-33.

<sup>16</sup> Att. #33, pg. 13, lines 26-28.

which way they would go. So both of us are now chasin' getting' tired there was one still in the car. Um and if so he could hop in the car, I can get out and chase on foot.”<sup>17</sup> Officer B stated that he had a clear view through the passenger’s side window and watched Officer A and Subject 1 run into the gangway, where he saw Subject 1 fall face first to the ground. At that point, Officer A was approximately 15-20 feet behind Subject 1. Officer B observed Subject 1 get back up and, seconds later, he saw Officer A crouch and extend his arms in a firing stance, then discharge his weapon at least five times. At the time that Officer A fired, Officer A had closed the gap between himself and Subject 1 to approximately 10 feet. Officer B stated that he did not see Subject 1 holding anything in his hands as he got up from the ground, and from his vantage point he could not tell if Subject 1 turned toward Officer A before Officer A discharged his weapon. Officer B did not hear either Officer A or Subject 1 say anything immediately prior to the shooting.

As Officer B made a radio call of “shots fired by the police,” Subject 1 continued to run west down the gangway toward Laramie. Officer B gave chase in his vehicle, driving south down the alley, then west on Augusta. Officer B regained visual contact of Subject 1 as he ran southbound on Laramie and across Augusta. At that point, Officer B saw Subject 1 running with a firearm in his hand. Officer B turned south on Laramie and saw Subject 1 jump over a gate in front of a residence on the east side of Laramie. Officer B exited his vehicle, drew his weapon, and took cover next to the front stairs of XXXX N. Laramie. Officer B saw Subject 1 run into the north gangway of the residence, then enter the home through a side window. Officer B stayed in front of the residence while Officer A ran to cover the rear. When assisting units arrived, Officer B pointed out the window that Subject 1 went into, as well as a blood trail on the sidewalk, the side of the home, and the window. The assisting units then entered XXXX N. Laramie and Officer B heard over the radio that they located Subject 1, placed him into custody, and recovered a weapon.

### Additional Witnesses

In an **Electronically Recorded Interview (ERI) on September 15, 2015, Civilian 3**<sup>18</sup> relayed the following account to an Assistant State’s Attorney.<sup>19</sup> On the date and time of the incident, Civilian 3 was inside of her home at XXXX N. Laramie, watching television in her

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<sup>17</sup> Att. #33, pg. 40, lines 25-30.

<sup>18</sup> Att. #72.

<sup>19</sup> Civilian 3 was a XX-year-old juvenile at the time of the incident. As a result, the ASA obtained the consent of her mother, Civilian 4, prior to conducting the interview.

mother's bedroom. No one else was inside of the residence, but Civilian 3's aunt, Civilian 5, was in the rear yard with Civilian 3's nine cousins and sisters. At approximately 9:30 P.M., Civilian 3 heard multiple gunshots and ran from her mother's bedroom, which is located in the front of the house, to the rear door to tell her aunt. As she ran through the house, she passed by her bedroom doorway and heard the window in her room slam shut. Civilian 3, Civilian 5, and the nine children all went into Civilian 3's mother's bedroom and shut the door. Civilian 3 then heard the police banging on the back door, and Civilian 5 let them inside. The police did a quick check of the home and were about to leave when Civilian 3 told them that she had heard a noise in her bedroom. The police then returned to search her room. Moments later, she heard an officer yell, "He's in here." Civilian 3 remained in her mother's bedroom until the police left. When she was allowed to return to her room the next morning, Civilian 3 saw blood on the floor, the wall, and the window. When Civilian 3 was shown a photograph of Subject 1, she stated that she did not know him and had not let him into her home. She also confirmed that the gun found in her bedroom closet did not belong to her and was not there prior to the incident.

In an **Electronically Recorded Interview (ERI) on September 15, 2015, witness Civilian 5**<sup>20</sup> stated that on the date and time of the incident she was caring for ten children at XXXX N. Laramie, the home of her sister Civilian 4. Civilian 5 was in the garage and nine of the children were playing in the rear yard next to the garage when she noticed police "swarming the area."<sup>21</sup> At the same time, Civilian 5's XX-year-old niece, Civilian 3, came out of the rear door of the residence and stated that she had just heard gunshots. Civilian 5 took all ten children inside into the front bedroom for their safety. Civilian 5 then heard knocking on the rear door and police officers announcing their office. Civilian 5 opened the door, told the officers that she and the children were the only people inside, and let the officers into the residence. As the officers were getting ready to leave, Civilian 5 told them that Civilian 3 had heard a noise inside her bedroom and she asked them to search the room. Civilian 5 saw the officers enter Civilian 3's bedroom near the kitchen and heard them take Subject 1 into custody. Civilian 5 observed Subject 1 after he was arrested and stated that she had never seen him before and he did not have permission to enter the home.

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<sup>20</sup> Att. #95.

<sup>21</sup> Att. #95, 4 minutes, 20 seconds into ERI.

IPRA made numerous attempts to interview **witness Civilian 1**,<sup>22</sup> but those efforts were unsuccessful. On January 4, 2016, IPRA sent Civilian 1 a certified letter asking her to contact the agency if she had any information relevant to the investigation. Civilian 1 called IPRA on February 16, 2016 and scheduled an interview for the following day, but she did not show up for the appointment. An IPRA investigator reached Civilian 1 by phone and rescheduled her interview for February 19, 2016, but again, she did not appear for the appointment. IPRA investigators subsequently left multiple voicemails for Civilian 1, but she did not respond to any of them.<sup>23</sup>

IPRA investigators conducted a **Canvass**<sup>24</sup> of the area near the shooting scene on September 15, 2015, but they were unable to locate any additional witnesses or evidence. Although one person stated that he heard gunshots, he did not see the shooting or any part of the foot pursuit.

### b. Digital Evidence

The **Office of Emergency Management and Communications (OEMC) Radio Transmissions<sup>25</sup> and Event Queries<sup>26</sup>** document the following relevant and material communications:

9:37:57 P.M. Ofc. B: “[unintelligible] emergency. Shots fired by the police. Male black, black shirt, red trousers.”

9:38:14 P.M. Ofc. A: “West on Laramie, going eastbound. Shots fired by the police.”

9:38:49 P.M. Ofc. A: “XXXX N. Laramie, male black. Lost him running through the gangway.”

9:39:07 P.M. Ofc. B: “XXXX, squad. XXXX.”

9:40:07 P.M. Dispatch: “What was he originally wanted for, guys?”

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<sup>22</sup> Att. #58, 61, 88.

<sup>23</sup> Although Civilian 1 refused to speak to IPRA, she provided an account of the incident to DNAinfo.com. In an article published on September 15, 2015, Civilian 1 stated that she heard twelve gunshots as she was opening the back door of her home to let Subject 1 inside. She saw a man in a bulletproof vest sprinting southbound on Laramie, but he was not wearing a uniform and she “didn’t hear nobody shouting, ‘police, stop, freeze,’ nothing like that. He just came in and started shooting. He emptied his clip.” According to Civilian 1, the officer shot at Subject 1 for no reason, as he would “never ever bring a gun to this house. And even if he did, there’s no way he’d be stupid enough to point it at cops.” (Att. #77.)

<sup>24</sup> Att. #25.

<sup>25</sup> The OEMC Radio Transmissions quoted herein were transcribed by a COPA investigator. They do not include every transmission made within this time frame. For the full content, see Att. #37.

<sup>26</sup> Att. #10.

9:40:11 P.M. Ofc. A: "A pistol, he pointed it at me."

9:40:19 P.M. Ofc. B: "I got a blood trail right here, XXXX, so you need a unit with me right here I can go into the backyard."

9:41:00 P.M. Another unit: "Can I get a description one more time?"

9:41:02 P.M. Ofc. A: "Black, 6', tall, slender, uh black shirt, red pants, one black shoe, white socks, short haircut."

9:43:12 P.M. Dispatch: "Anybody recover a weapon yet, or no?"

9:43:16 P.M. Ofc. A: "He kept on going, gun in his right hand."

9:47:36 P.M. Beat XXXX: "We got him... Inside uh, inside this house over here. The address, give them, XXXX."

9:47:59 P.M. Beat XXXX: "We're gonna need an ambulance."

10:08 P.M. Event Query remarks: "Weapon recovered."

On September 15, 2015, IPRA requested the **In-Car Camera (ICC) Video<sup>27</sup>** for Beat XXXX (Vehicle #XXXX); however, the vehicle was not equipped with an ICC on the night of the incident.

IPRA requested the **Security Camera Video from the Elementary School<sup>28</sup>** which is located directly across the street from XXXX N. Laramie. On October 20, 2015, the Chicago Board of Education Law Department provided IPRA a DVD purportedly containing video from the date and time of the incident. After reviewing the DVD, IPRA discovered that it was blank. When an IPRA investigator requested a second copy of the video, the Board responded that Chicago Public School's Safety and Security Department had been unable to retrieve any video from the relevant date and time.

### c. Physical Evidence

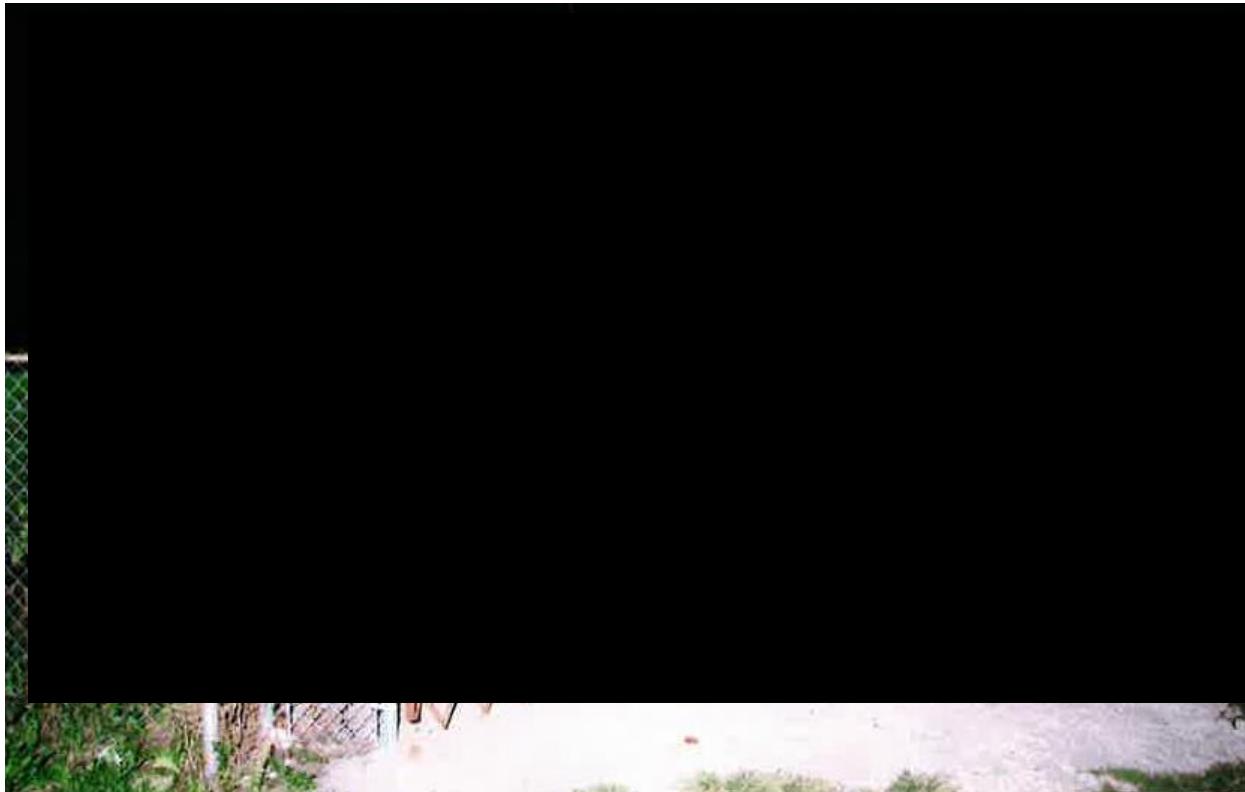
#### Forensic Evidence

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<sup>27</sup> Att. #30.

<sup>28</sup> Att. #57, 87.

**Evidence Technician (ET) Photographs<sup>29</sup> and Crime Scene Video<sup>30</sup>** depict the shooting scene from various angles. They include images of the expended shells and empty magazine recovered from the south gangway of XXXX N. Laramie, blood stains on the inside and outside of the bedroom window at XXXX N. Laramie, and the blood-spattered pistol found in the bedroom closet at XXXX N. Laramie. The photographs also include images of Subject 1 taken at Hospital 1, which show a gunshot wound to his right bicep.

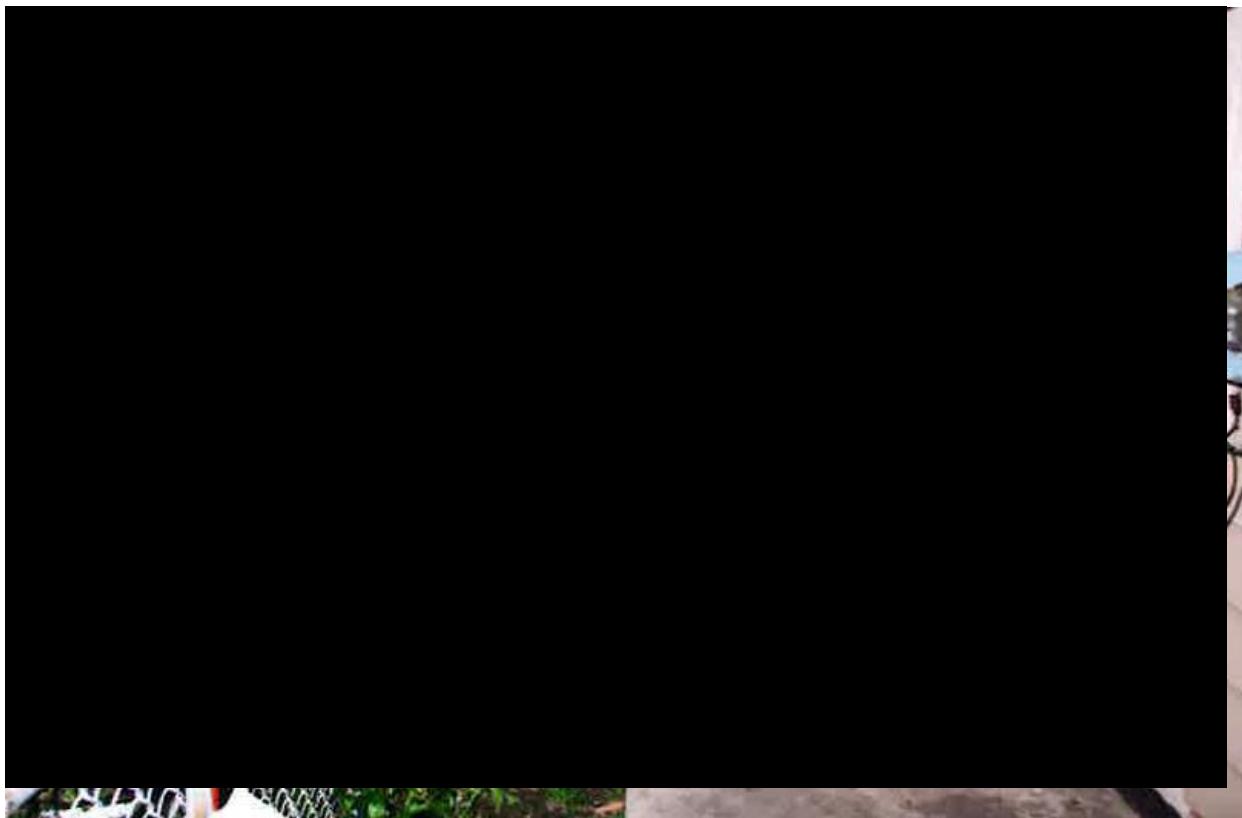


*Photograph of the rear yard and south gangway of XXXX N. Laramie, taken from the alley  
(Officer B's view at the time of the shooting)*

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<sup>29</sup> Att. #39-41.

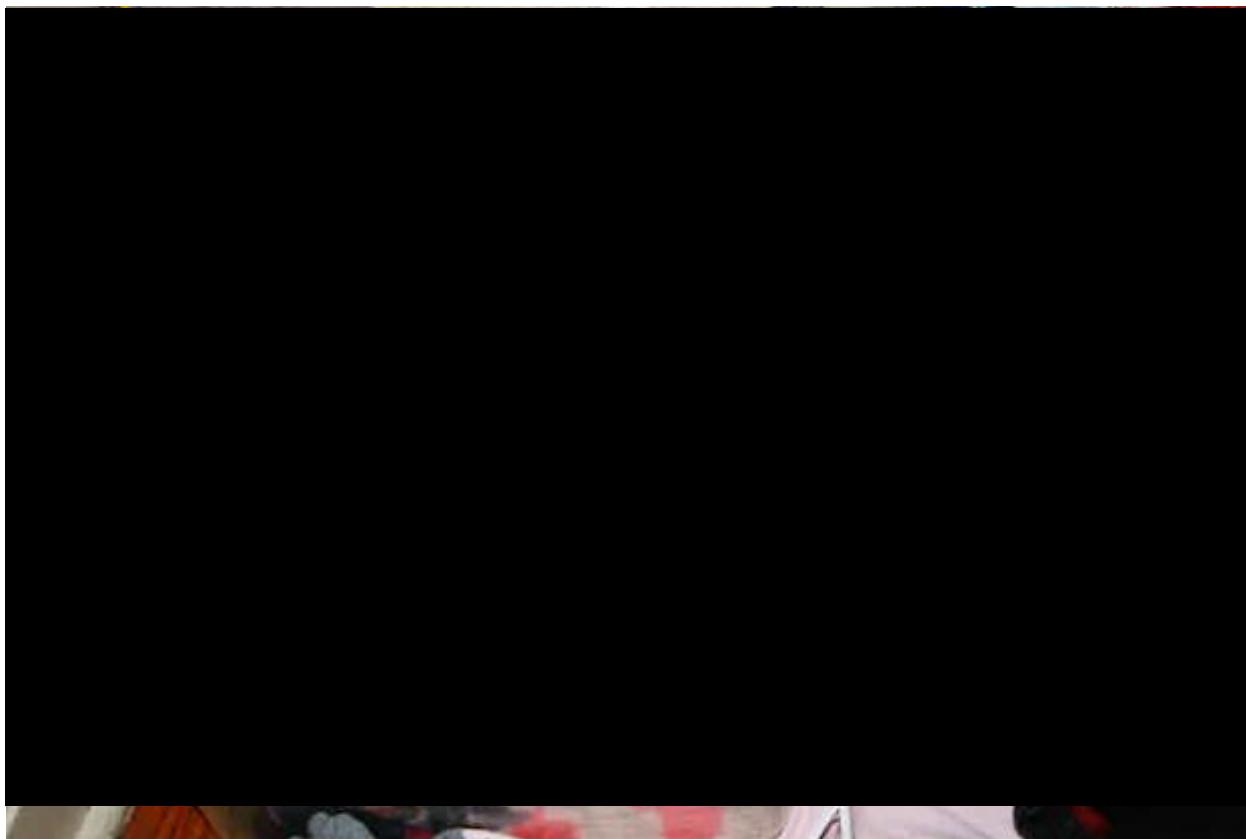
<sup>30</sup> Att. #42.



*Photograph of the expended shell casings in the south gangway of XXXX N. Laramie*



*Photograph of blood on the bedroom window where Subject 1 entered XXXX N. Laramie*



*Photograph of the blood-spattered pistol in the bedroom closet at XXXX N. Laramie*

According to the **Inventory Sheets**,<sup>31</sup> items recovered from the shooting scene include twelve expended shell casings, a live bullet headstamped “Winchester 45 Auto”, a fired bullet, and an empty Glock .45 caliber 13-round capacity magazine. A second live round headstamped “Winchester 45 Auto” was recovered from the alley pavement behind XXXX N. Laramie. Additionally, a bloody pink and white colored fitted bedsheets was recovered from the bed in the northeast bedroom at XXXX N. Laramie. At Hospital 1, a forensic investigator recovered Subject 1’s clothing and personal property, including one black Timberland boot (right foot), a pair of red jeans, a black short sleeve shirt, and a pair of white socks.

The Inventory Sheets (and related Firearms Worksheets) also document the processing of Officer A’s Glock Model 21 pistol and Subject 1’s Ruger Model P89 pistol. Officer A’s weapon, which had a 13-round capacity magazine, was found to have twelve live rounds of ammunition in the magazine and one live round in the chamber of the weapon. The Ruger Model P89 pistol recovered from the bedroom closet at XXXX N. Laramie contained a magazine of unknown

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<sup>31</sup> Att. #12, 78-79, 82.

capacity, loaded with eleven 9mm Luger cartridges. Two Hotshot 9mm Luger cartridges were also recovered from the chamber of the weapon. An evidence technician swabbed both firearms for the presence of DNA. Additionally, swabs were taken of blood found on the slide of the Ruger Model P89 pistol, the bedroom floor at XXXX N. Laramie, and the interior and exterior of the bedroom window at XXXX N. Laramie.

**Illinois State Police Forensic Science Laboratory Report #C15-030119 (ISP)**<sup>32</sup> documents the examination of recovered firearms evidence in this investigation. An analysis of the report resulted in the following relevant facts:

Ten “Winchester 45 Auto” fired cartridge cases and two “Winchester 45 Auto +P” fired cartridge cases recovered from the south gangway of XXXX N. Laramie were determined to have been fired from Officer A’s weapon.<sup>33</sup>

An unfired “Winchester 45 Auto” cartridge recovered from the south gangway of XXXX N. Laramie and an unfired “Winchester 45 Auto” cartridge recovered from the alley pavement at XXXX N. Laramie were examined for caliber and type.

A Ruger Model P89, 9mm semi-automatic pistol was submitted with a detachable box magazine and thirteen unfired cartridges. An ISP forensic scientist test fired the weapon and determined it to be operable as received. A test-fired cartridge was entered into the IBIS database,<sup>34</sup> which revealed a possible association between the Ruger Model P89 pistol and the weapon involved in RD #XXXXXX.<sup>35</sup>

The examination of Officer A’s weapon determined it to be operable as received and it was test fired using a magazine and ammunition submitted with the weapon.

**CPD Firearms Laboratory Ballistic Information Alert #XXXXXXX**<sup>36</sup> documents a high confidence correlation between the Ruger Model P89 pistol recovered in this incident and the 9mm fired cartridge cases recovered in RD #XXXXXXX, the shooting that occurred at XXXX N. Kedvale on XXXXXX XX, 20XX.

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<sup>32</sup> Att. #48.

<sup>33</sup> COPA will address Office A’s alleged use of mixed ammunition in a separate report.

<sup>34</sup> Integrated Ballistics Identification System, which compares fired evidence to other crimes.

<sup>35</sup> RD #XXXXXX is an aggravated battery with a handgun that occurred on XXXXX XX, 20XX, at XXXX N. Kedvale. The victim in that incident was shot five times while he was walking down Kedvale by an unknown assailant firing from the backseat of an SUV. (Att. #50-52.)

<sup>36</sup> Att. #49.

## Medical Evidence

The **Chicago Fire Department Ambulance Report**<sup>37</sup> states that Emergency Medical Services (EMS) personnel from Ambulance XX arrived at XXXX N. Laramie at 9:52 P.M., but “upon arrival CPD had scene locked down and asked CFD to stand by in front of address.” At approximately 10:10 P.M., CPD officers walked a handcuffed Subject 1 out of the residence and into the ambulance. EMS personnel treated Subject 1 for a gunshot wound to the right bicep and transported him to Hospital 1 without incident.

The **Medical Records**<sup>38</sup> obtained from Hospital 1 indicate that Subject 1 arrived at the ER at 11:15 P.M. via Ambulance XX, and Doctor 1 treated him for a through-and-through gunshot wound to the right bicep. The records note that Subject 1 had a 3cm laceration to his inner right arm and a 2cm laceration to his posterior right arm. He also had superficial abrasions to his hands, and Subject 1 reported that he had been treated at Hospital 2 the previous evening for a gunshot wound to his left foot.<sup>39</sup> Subject 1 was discharged from Hospital 1 into the custody of CPD at 6:14 P.M. on September 15, 2015.

A **Breathalyzer Test**<sup>40</sup> taken by Officer A at 1:57 A.M. on September 15, 2015 showed that his Blood Alcohol Concentration (BAC) was .000. Officer A also submitted to a urine drug test on the same date, which yielded negative results.

### d. Documentary Evidence

#### Department Reports

The **Detective’s Supplementary Report and General Progress Reports (GPRs) for RD #XXXXXX Aggravated Assault PO: Handgun**<sup>41</sup> include the assigned detectives’ notes from their interviews with Officer A and Officer B, which contain essentially the same information that the officers provided IPRA during their statements. They also summarize the detectives’

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<sup>37</sup> Att. #29.

<sup>38</sup> Att. #44.

<sup>39</sup> Medical Records from Hospital 2 confirm that Subject 1 was admitted to the ER at 10:50 P.M. on September 13, 2015, where he was treated for a gunshot wound to the bottom of the left foot. Subject 1 told hospital staff that he was injured when he “was walking to get in car and another vehicle pulled up and started shooting.” He was discharged with a prescription and crutches at 12:12 A.M. on September 14, 2015. (Att. #59.)

<sup>40</sup> Att. #45.

<sup>41</sup> Att. #62, 91.

interviews with Subject 1 and a number of witnesses that IPRA did not speak with, including witness Civilian 1, arresting Officer D and Officer E, and arresting Sergeant A:

- **Subject 1** spoke to detectives at approximately 10:00 P.M. on September 14, 2015, at XXXX N. Laramie, immediately after he was placed into custody and advised of his Miranda Rights. During his statement, Subject 1 admitted that the gun recovered from the bedroom closet at XXXX N. Laramie belonged to him, and that he purchased it off the street for protection after being shot in the foot the previous day. At the time that Subject 1 first encountered Officer A and Officer B, he stated that the gun was concealed in his right front pants pocket. Subject 1 was standing in the alley behind XXXX N. Laramie, waiting for Civilian 1, his son's mother, to open the back door and let him inside. As he waited, Subject 1 saw a police car enter the alley and drive in his direction, which made him nervous because he was carrying a gun while on parole. When the police car stopped and one of the officers asked Subject 1 what he was doing in the alley, he stated, "I don't want to go back to jail so I ran."<sup>42</sup> Subject 1 tripped and fell as he ran through the rear yard of XXXX N. Laramie, causing the gun to come out of his pocket and fall onto the ground. He "picked up the gun and looked back to see where the police officers was at,"<sup>43</sup> then got up and continued to flee. As he ran through the gangway with the gun in his right hand, he looked back at the officers a second time, and Subject 1 heard several gunshots. He continued to run southbound on Laramie across Augusta, and he jumped a fence into a yard. Subject 1 acknowledged that he entered a residence through a window, then put his gun in a closet and crawled underneath the bed. He remained there until officers entered the house and arrested him.
- **Civilian 1** told detectives that Subject 1 is her ex-boyfriend and the father of her child. On the night of the incident, Subject 1 called Civilian 1 and told her that he was getting out of a cab on Augusta. He asked her to open the rear door of her home at XXXX N. Laramie so that he could come inside and visit his two-year-old son. Civilian 1 opened the rear door and saw Subject 1 walking down the alley in the direction of her home. As she opened the door, her son ran down the stairs towards the door to greet his father. Civilian 1 carried

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<sup>42</sup> Att. #62, pg. 15.

<sup>43</sup> Att. #62, pg. 15.

him back up the stairs, leaving the rear door open and the screen door closed. She then heard 8-10 gunshots coming from the gangway area outside her rear door. Civilian 1 ran back down the stairs and observed a tall police officer wearing a baseball hat, a tan shirt, and a black vest running westbound down the gangway. He turned and ran southbound on Laramie, out of her sight.

- **Officer D and Officer E** stated that they were responding to a radio call of “shots fired by the police” when they overheard a radio transmission indicating that Subject 1 had entered a side window at XXXX N. Laramie. The officers entered the residence and located Subject 1 hiding under a bed in a rear bedroom. Officer D and Officer E placed Subject 1 into custody with the assistance of Sergeant A, who told them that there was a weapon in the closet. Upon hearing this, Subject 1 immediately stated that the gun was his and that he had it for protection because he had been shot the previous night.
- **Sergeant A** stated that she was monitoring radio transmissions when an OEMC dispatcher reported a “10-1”<sup>44</sup> in the vicinity of Laramie and Augusta. As Sergeant A responded to the area, she heard a radio transmission stating that Subject 1 was inside of XXXX N. Laramie. Sergeant A entered the residence through the rear door and another officer at the scene related that Subject 1 might be in the bedroom. Sergeant A then observed two officers look under the bed and pull Subject 1 out from underneath it. Sergeant A handcuffed Subject 1, then noticed an open closet door and a handgun lying on top of the clothing inside the closet. Subject 1 acknowledged that the gun belonged to him and stated that he had it for protection because he had been shot the previous night.

According to the **Arrest Report**,<sup>45</sup> Officer D and Officer E arrested Subject 1 at 9:48 P.M. on September 14, 2015, at XXXX N. Laramie. EMS transported Subject 1 to Hospital 1 for treatment, where a forensic investigator subsequently fingerprinted and photographed him. At 8:10 P.M. on September 15, 2015, an Assistant State’s Attorney approved felony charges against Subject 1 for aggravated assault on a peace officer with a weapon, being an armed habitual criminal, and criminal trespass to a residence. A warrant was also executed for violation of parole.

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<sup>44</sup> A 10-1 is a radio call of an officer in need of assistance.

<sup>45</sup> Att. #5.

The **Tactical Response Report (TRR)**<sup>46</sup> completed by Officer A indicates that on the date and time of the incident, Subject 1 did not follow verbal commands, fled, posed an imminent threat of battery, and “pointed 9mm handgun at officer.” Officer A responded with member presence, verbal commands, and by discharging his firearm a total of twelve times. Officer A reported that at the time he fired the first shot, he was approximately 5-10 feet away from Subject 1.<sup>47</sup>

The **Officer’s Battery Report (OBR)**<sup>48</sup> completed by Officer A indicates that on the date and time of the incident, he was on duty in plainclothes and working with a partner. The OBR lists the type of weapon used against Officer A as a 9mm semi-automatic firearm and the manner of attack as “Other (including verbal threats).” Officer A did not sustain any injuries.

The **Crime Scene Processing Report #XXXXX**<sup>49</sup> documents the recovery of evidence from the shooting scene, including twelve expended shells, a live bullet, a fired bullet, and an empty Glock .45 caliber 13-round capacity magazine. A second live bullet was discovered on the alley pavement at XXXX N. Laramie. Additionally, at XXXX N. Laramie, a forensic investigator recovered a Ruger Model P89 pistol from the closet of the northeast bedroom and photographed blood evidence observed inside and outside of the residence. The report notes that when the forensic investigator cleared the Ruger, he discovered that “2 cartridges were in the chamber (double feed), making the gun incapable of being fired in its condition.”

Subject 1 was fingerprinted and photographed at Hospital 1, and his clothing and personal property were recovered and inventoried. At the Area North Detective Division, a forensic investigator recovered Officer A’s Glock Model 21 pistol and swabbed it for DNA.<sup>50</sup>

The **Assignment and Attendance Record**<sup>51</sup> for Unit XXX, 4<sup>th</sup> Watch, states that on September 14, 2015, Officer A was working as a gang team officer assigned to Beat XXXX.

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<sup>46</sup> Att. #8.

<sup>47</sup> Officer A revised this distance to 15 feet during his statement to IPRA on September 22, 2015. (Att. #35-36.)

<sup>48</sup> Att. #9.

<sup>49</sup> Att. #11, 27.

<sup>50</sup> Crime Scene Processing Report #XXXXX documents suspected firearm damage to a nearby residence, XXXX N. Latrobe. (Att. #81.)

<sup>51</sup> Att. #80.

Officer B was a foot officer assigned to Beat XXXX. They were operating Vehicle #XXXX, an authorized covert police vehicle.<sup>52</sup>

The Major Incident Notification Report<sup>53</sup> and IPRA's Preliminary Report<sup>54</sup> restate essentially the same information as the Introduction of this report, with fewer details.

### Other Documentary Evidence

According to the Cook County Criminal Court Records for Case #XXXXXXXXXX,<sup>55</sup> on March 4, 2016, Judge 1 held a hearing in which the court summarized the evidence that the prosecution would present if Subject 1's criminal case went to trial. In aggravation, the prosecution noted that Subject 1 twice pointed his weapon at Officer A when Officer A was announcing his office. Additionally, when Subject 1's gun was recovered, two rounds were found "jammed in the chamber."<sup>56</sup> In mitigation, Subject 1's attorney stated that Subject 1 had graduated from high school and hoped to go to college. Judge 1 indicated that he would impose a sentence of 5 years in prison if Subject 1 pled guilty.

On August 17, 2016, Subject 1 pled guilty to aggravated assault on a peace officer with a weapon (720 ILC 5/12-2(B)(4)) and the unlawful use of a weapon by a felon (720 ILCS 5/24-1.1(A)). At that hearing, Judge 1 informed Subject 1 that the aggravated assault charge against him alleged the following:

"On or about the date of September 14, 2015...you without lawful authority, knowingly engaged in contact which placed Officer A in reasonable apprehension of receiving a battery, to wit, you pointed a handgun at Officer A and you knew Officer A to be a peace officer, to wit, the Chicago Police Department, and you assaulted him while Officer A was performing his official duties and you were armed with a Category 1 weapon, to wit, a handgun, during the commission of the assault."<sup>57</sup>

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<sup>52</sup> An unmarked vehicle means that the vehicle did not have readily visible CPD insignia on it. The vehicle was a blue Ford Crown Victoria with Municipal plates.

<sup>53</sup> Att. #47.

<sup>54</sup> Att. #4.

<sup>55</sup> Att. #83, 90, 96.

<sup>56</sup> Att. #96, pg. 5, line 1. This could indicate that Subject 1 tried to fire at Officer A but his weapon malfunctioned.

<sup>57</sup> Att. #90, pg. 4, lines 8-17.

Subject 1 stated that he wanted to plead guilty to the charge, and Subject 1's attorney stipulated that during the March 4, 2016 hearing the prosecution had presented evidence that constituted a sufficient factual basis to support a guilty plea." Judge 1 found that the plea was freely, voluntarily, and intelligently entered into, and he sentenced Subject 1 to five years in the Illinois Department of Corrections.<sup>58</sup>

## VI. ANALYSIS

### a. Legal Standard

CPD's policy regarding the use of deadly force is set forth in General Order 03-02-03, II,<sup>59</sup> which states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
  - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
  - b. is attempting to escape by use of a deadly weapon or;
  - c. otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

In addition, the use of deadly force is codified under section 7-5 of the Illinois Criminal Code (720 ILCS 5/7-5 (West 2016)). That statute provides, in pertinent part:

"A peace officer...need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using

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<sup>58</sup> According to Illinois Department of Corrections records, Subject 1 was released on parole on March 9, 2018. (Att. #89.)

<sup>59</sup> This report cites the version of General Order 03-02-03 in effect on September 14, 2015.

force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...”

Determinations regarding the potential use of excessive force - deadly or not - in the course of an arrest, investigatory stop, or other “seizure” are properly analyzed under the Fourth Amendment’s objective reasonableness standard. The question is whether the officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). Moreover, the reasonableness calculation “must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham*, at 396–97. Consequently, “when an officer believes that a suspect’s actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force.” *Muhammed v. City of Chicago*, 316 F.3d 380, 683 (7th Cir. 2002) (quotations and emphasis omitted).

Finally, COPA makes its factual and legal determinations using a preponderance of the evidence standard. The preponderance standard is met when a proposition is more probably true than not. *Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005).

### **b. Legal Analysis**

COPA finds that at the time that Officer A discharged his weapon, he reasonably believed that deadly force was necessary to prevent Subject 1 from causing death or great bodily harm to him or others.<sup>60</sup> It is uncontested that Subject 1 possessed a firearm when he encountered Officer A and Officer B in the alley, that the firearm came out of Subject 1’s pocket when he tripped and fell, and that Subject 1 held the firearm in his right hand at the time that Officer A discharged his weapon. Additionally, COPA finds that Subject 1 looked back at Officer A twice as he fled, both times holding the gun in his right hand, and that at an absolute minimum, Officer

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<sup>60</sup> Because COPA finds that Officer A’s use of deadly force was justified on this basis, this report does not analyze Officer A’s actions under the second prong of General Order 03-02-03, II, i.e., whether or not Officer A reasonably believed that the use of deadly force was necessary prevent Subject 1’s arrest from being defeated by resistance or escape.

A reasonably perceived that Subject 1 was pointing the firearm at him. Officer A's account of the incident is corroborated by Subject 1's own statement to detectives, as well as his guilty plea to the charge of aggravated assault on a peace officer with a weapon.

**i. Subject 1 possessed a firearm as he fled from Officer A and held the firearm in his right hand at the time of the shooting.**

Following the incident, Subject 1 told the arresting officers, detectives on scene, and IPRA that the firearm recovered from the bedroom closet at XXXX N. Laramie belonged to him, and that he had purchased it for protection because he had been shot in the foot the previous evening. Subject 1 also told both IPRA and detectives that the gun was concealed in his right front pants pocket at the time that he first encountered Officer A and Officer B, and that it came out of his pocket when he tripped and fell near the rear door of XXXX N. Laramie. During Subject 1's statement to IPRA, he maintained that Officer A could not have seen the weapon when it came out of his pocket, as the gun fell in front of him and Subject 1's body blocked Officer A's view. COPA, however, finds Officer A's statement that he saw the weapon credible. Officer A was only 10-15 feet behind Subject 1 when he tripped and fell, and he had a clear view of Subject 1 at the time. Importantly, Officer A contemporaneously reported over the radio that Subject 1 pointed a firearm at him. Moreover, despite Subject 1's belief that Officer A did not see him pick up the gun, he admitted to detectives that it was in his right hand as he ran down the gangway and Officer A discharged his weapon. This is consistent with Officer A's account, and with Officer B's statement that he saw Subject 1 running with the weapon in his right hand as he fled southbound on Laramie.<sup>61</sup>

**ii. Officer A reasonably believed that Subject 1 posed an immediate threat to his life when Subject 1 looked back at Officer A with the gun in his hand on two occasions, and Officer A perceived that Subject 1 was pointing the weapon at him.**

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<sup>61</sup> Officer B stated that he did not see Subject 1 holding anything in his hands immediately after he got up from the ground; however, Officer B was more than 50 feet away at the time, viewing the foot pursuit from inside a vehicle, through the darkness. Subject 1 admitted to both CPD detectives and IPRA investigators that he was holding a firearm in his right hand.

According to Officer A, Subject 1 pointed his gun at him on two occasions. The first time occurred immediately after Subject 1 fell and the gun came out of his pocket. Officer A stated that Subject 1 grabbed the gun with his right hand, pushed himself onto his left knee with his left hand, then looked back at Officer A as he swung the gun in his direction. Subject 1 himself admitted to detectives that he “picked up the gun and looked back to see where the police officers was at,” then ran down the gangway with the gun in his right hand. Moments later, Officer A stated that Subject 1 looked back at him a second time, and turned far enough to the right to expose his face, right breast, right arm, and the firearm. Officer A recalled that Subject 1 “turned right to face me, he raised the pistol at me, and we made eye contact.” Officer A then discharged his weapon a total of twelve times. When Subject 1 spoke to IPRA, he denied that he ever looked back at, turned towards, or pointed his weapon at Officer A; however, when he spoke to detectives immediately after the incident, Subject 1 acknowledged that he twice looked back at Officer A while holding the gun in his right hand.<sup>62</sup>

There are no independent witnesses or video of the incident, and Officer B stated that from his vantage point in the alley, he could not see whether Subject 1 looked back or pointed a weapon at Officer A before Officer A fired. Officer B did, however, see Subject 1 running down Laramie with a gun in his right hand just seconds later. Additionally, when the OEMC dispatcher asked what Subject 1 was originally wanted for less than two minutes after the shooting, Officer A responded, “A pistol. He pointed it at me.” This contemporaneous statement, made before Subject 1 was even in custody, supports that Officer A at least perceived Subject 1 to be pointing his firearm at him.<sup>63</sup> Finally, Subject 1 pled guilty to aggravated assault on a peace officer with a weapon, 720 ILC 5/12-2(B)(4), and stipulated that the State of Illinois had obtained evidence to prove his guilt beyond a reasonable doubt. In other words, Subject 1 stipulated that the State of Illinois had evidence to prove beyond a reasonable doubt—a much higher evidentiary standard than a preponderance of the evidence—that his use of the firearm caused Officer A to reasonably apprehend a battery. The combination of all of these facts demonstrates, at a minimum, that Subject

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<sup>62</sup> There are also other inconsistencies between Subject 1’s statement to the detectives and his statement to IPRA that shed doubt on his credibility and reliability. For example, Subject 1 told IPRA investigators that he never dropped his firearm and it simply scrapped the ground while being held in his right hand, but he told CPD detectives that his firearm fell to the ground and he picked it back up.

<sup>63</sup> Indeed, there is some evidence that Subject 1 attempted to fire the weapon at Officer A. Specifically, CPD Forensic Investigators discovered two bullets in the chamber of the Ruger Model P89 pistol, which could indicate that the weapon malfunctioned when Subject 1 tried to fire it.

1 twice looked back at Officer A with a firearm in his right hand, and that Officer A reasonably perceived Subject 1 to be pointing the weapon at him.

- iii. **A reasonable officer under these circumstances would perceive Subject 1's actions as a significant threat and, therefore, Officer A's belief that Subject 1 presented a threat of death or great bodily harm was objectively reasonable.**

Although Subject 1 never acknowledged that he intentionally pointed his firearm at Officer A, he did tell detectives that he twice looked back at Officer A while he was fleeing with the gun in his hand. Regardless of Subject 1's intentions, when he looked back Officer A reasonably perceived that Subject 1 was pointing the weapon at him. It is axiomatic that officers may use deadly force when they reasonably perceive that a suspect is pointing a firearm in their direction.

Even assuming *arguendo*, that Subject 1 did not point his firearm directly at Officer A, Officer A was not required to wait until the firearm was pointed directly at him before using deadly force. In situations such as this, courts have accepted the action-reaction principle to justify an officer's anticipatory use of his weapon to protect himself. A potential threat can be sufficient; it need not materialize to the point of harm. *See, e.g. Anderson v. Russell*, 247 F.3d 125, 132 (4th Cir. 2001) (officer "does not have to wait until a gun is pointed" before acting). In this case, a preponderance of the evidence demonstrates that Subject 1 turned back to his right, exposing his face, right breast, right arm, and the firearm to Officer A, and Subject 1 had ignored multiple lawful commands to stop. General Order 03-02-03 specifically states that a sworn member may use deadly force in order to "to prevent death or great bodily harm to the sworn member or another person." Based on the totality of the circumstances, an officer with similar training and experience would reasonably believe that Subject 1 posed an imminent threat of causing him or her death or great bodily harm. Therefore, the use of deadly force by Officer A was objectively reasonable and within policy as outlined by the Use of Force Model, the Illinois State Statute, and the Chicago Police Department's General Order 03-02-03, II, and the allegation of wrongdoing made by Subject 1 against Officer A is unfounded.<sup>64</sup>

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<sup>64</sup> An unfounded finding means that the facts did not occur as the complainant alleged. Specifically, in this case, the evidence demonstrates that Subject 1 was not simply fleeing with his back turned toward Officer A. Rather, at a minimum, Subject 1 turned back to his right toward Officer A with a firearm in his right hand, causing Officer A to reasonably perceive that the firearm was being pointed at him. A preponderance of the evidence demonstrates that Officer A began to discharge his firearm while Subject 1 was turned in part toward Officer A. Furthermore, COPA automatically investigates all officer involved shootings to determine whether they are within or outside CPD policy and finds this shooting to be within policy.

## VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding
Officer A	1. On or about September 14, 2015, at 9:38 P.M., at XXXX N. Laramie, Officer A violated General Order 03-02-03 in that he discharged his weapon at Subject 1 while Subject 1 was fleeing and had his back turned toward Officer A, in violation of Rules 2, 3, 6, and 8.	Unfounded

Approved:

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*Acting Deputy Chief Administrator – Chief  
Investigator*

Date

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*Deputy Chief Administrator*

Date

**Appendix A**

Assigned Investigative Staff

<b>Squad#:</b>	XXXX
<b>Major Case Specialist:</b>	Major Case Specialist 1
<b>Supervising Investigator:</b>	Supervising Investigator 1
<b>Acting Deputy Chief Administrator:</b>	Acting Deputy Chief Administrator 1